



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

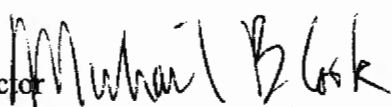
JUN 9 2006

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

OSWER -9355.0-109

MEMORANDUM

SUBJECT: Policy on Recalculating the Long-Term Response Action (LTRA) Ten-Year Time Period

FROM: Michael B. Cook, Director 
Office of Superfund Remediation and Technology Innovation

TO: Superfund National Policy Managers (Region I – X)

PURPOSE

The purpose of this memorandum is to transmit the final guidance entitled "Policy on Recalculating the Long-Term Response Action (LTRA) Ten-Year Time Period."

This directive presents the Office of Superfund Remediation and Technology Innovation's (OSRTI) policy on when it may be appropriate to make a change to the Fund-financed long-term response action ten-year time period and amends the fact sheet "*Transfer of Long-Term Response Action (LTRA) Projects to States*," OSWER 9355.7-08FS, July 2003^a.

This guidance provides information to the public and to the regulated community on how EPA intends to exercise its discretion in implementing its regulations at contaminated sites. It is important to understand, however, that this document does not substitute for statutes EPA administers or their implementing regulations; nor is it a regulation itself. Thus, this document does not impose legally binding requirements on EPA, states, or the regulated community, and, depending on specific circumstances, may not apply to all situations. Rather, the document suggests approaches that may be used at particular sites as appropriate, given site-specific circumstances. This guidance may be modified in the future.

^a Amends page 4, Section B, "Does the ten-year LTRA period ever restart?"

BACKGROUND

This directive provides some factors Regions should consider when evaluating site-specific circumstances and establishes a consultation process with HQ when making the determination to recalculate the Fund-financed LTRA ten-year time period.

For purposes of this guidance, the LTRA ten-year time period typically begins after the operational and functional (O&F) determination and ends at the start of the State-funded period of operation and maintenance (O&M). Generally, federal funding continues to be provided (with the State providing the 10% cost share) during the LTRA period as it has been for the remedial action. For ground water and surface water restoration remedies, even if cleanup goals have not been achieved at the end of the ten years, the Fund-financed remedy typically transitions to O&M, which is fully funded by the State.

Generally, under normal circumstances, the Fund-financed LTRA time period may last up to ten years following the O&F determination.^b

Normally, the ten-year LTRA time period should not be affected due to a remedy change that would be considered a continuation of the original remedy but would achieve the remedial action goals in a more efficient or less costly manner.

Also, the LTRA time period generally would not be affected by a changed Applicable or Relevant and Appropriate Requirement (ARAR) where the new ARAR does not require a fundamental change to the remedy. In addition, adjustments made to ground water restoration remedies following an optimization review typically would not affect the LTRA time period since these changes are generally considered routine and are designed to ensure effective and efficient operations.

An interim remedial action involving a restoration remedy where the final remedy decision is also restoration, would, under normal circumstances, not affect the ten-year LTRA period. For example, if an interim remedy calls for the restoration of groundwater to protective levels and the final remedy decision is also restoration of the same groundwater source, the LTRA would typically begin after completion of both the RA construction and the O&F determination for the interim remedy and would continue for up to ten years.

IMPLEMENTATION

Recalculating the LTRA Ten-Year Period

In certain site-specific circumstances, the Agency may determine that it is appropriate to recalculate the LTRA ten-year time period. For example, the Region may consider recalculating the ten-year LTRA time period when:

^b A complete overview and description of the O&F and O&M planning and implementation process in Superfund can be found in OSWER Directive 9200.1-37FS "*Operation and Maintenance in the Superfund Program*" (EPA 540-F-01-004, May 2001).

- A new, previously not identified contaminant of concern (e.g., 1, 4-Dioxane) is discovered late in the LTRA time period which necessitates a fundamental change to the operating treatment system chosen in the Record of Decision.
- A natural disaster (e.g., flood, hurricane, tornado, etc.) occurs during the LTRA that causes extensive damage to the remedy thereby requiring the Agency (with the State providing the 10% cost share) to reconstruct or rebuild all or part of the remedial action.

Requesting a Recalculation of the LTRA Ten-Year Time Period

Regions are required to consult with and receive written approval from OSRTI's Assessment and Remediation Division (ARD) Director prior to recalculating the ten-year federally funded LTRA time period. The information requested for the consultation with OSRTI is provided below.

The Regions should provide the following documentation:

- Provide a brief background and description of the site;
- The part of the remedy and type of remedy that is being considered for the recalculated LTRA time period;
- The rationale for requesting the change and the proposed recalculated time period;
- A draft of the proposed Explanation of Significant Differences (ESD) or ROD amendment that will be used to document the recalculation of the LTRA ten-year period.

The information should be sent to the Branch Chief of the appropriate Regional Support Branch in the Assessment and Remediation Division of OSRTI. This information will be reviewed by OSRTI to determine if a recalculation of the LTRA ten-year time period is warranted. If a recalculation of the federally funded LTRA ten-year time period is approved by OSRTI, the Region should document the decision using either an ESD or ROD amendment, as appropriate. For questions regarding this policy, please contact Rafael Gonzalez at 703-603-8892 or David Lopez at 703-603-8707.

cc: Susan Bodine, OSWER
Barry Breen, OSWER
OSRTI Managers
Ed Chu, Land Revitalization Staff
Debbie Dietrich, OEM
David Lloyd, OBCR

Matt Hale, OSW
Jim Woolford, FFRRO
Susan Bromm, OSRE
Dave Kling, FFEO
Scott Sherman, OGC
Eric Steinhaus, Superfund Lead Region Coordinator, US EPA Region 8
NARPM Co-Chairs
OSRTI Documents Coordinator